

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

---

UNITED STATES OF AMERICA

v.

KYUNG HEO

§  
§  
§  
§  
§

4:23-CR-212-O

---

MOTION FOR LEAVE TO FILE DEFENDANT’S OBJECTIONS TO THE PRESENTENCE INVESTIGATION  
REPORT OUT OF TIME

---

TO THE HONORABLE REED O’CONNOR, UNITED STATES DISTRICT JUDGE:

NOW COMES defendant, KYUNG HEO, through undersigned counsel, and hereby moves the Court for leave to file Defendant’s Objections to the Presentence Report Investigation (“PSR”) out of time and shows as follows:

- (1) Paragraphs 27 through 30 of the PSR reference new offenses implicating the Defendant.
- (2) Counsel was not given discovery relating to these new offenses in the original discovery disclosure by the government.
- (3) Counsel requested discovery relating to the new offenses identified in paragraphs 27 and 30. In response, the government tendered a heavily redacted police report.
- (4) Counsel also inspected two unredacted police reports in the possession of the United States Probation Office.
- (5) Based on review of these reports, Counsel learned that more discovery exists including investigations by the Lewisville Police Department, Flower Mound Police Department, and

the FBI detailing videos, witness statements, and DNA collection samples relating to these new offenses.

- (6) Counsel has requested complete discovery for these new offenses listed in paragraphs 27 through 30.
- (7) Counsel has an obligation to zealously represent his client, which includes an independent investigation of facts alleged in the PSR that may be considered for purposes of punishment.
- (8) This investigation involves the review of Documents and Objects in the government's possession as contemplated by Rule 16 in the Federal Rules of Criminal Procedure.
- (9) Based on conversations with the prosecutor in the Eastern District of Texas handling the conduct alleged in paragraphs 27 through 30, Counsel knows that the investigative materials—i.e., Documents and Objects relating to Paragraph 27 through 30—are in the government's possession. As such, Counsel is working on obtaining the discovery related to paragraphs 27 – 30.

Thus, Counsel requests permission to file this pleading out of time.

WHEREFORE, PREMISES CONSIDERED, defendant KYUNG HEO prays that this motion for leave to file be granted.

Respectfully submitted,

JASON HAWKINS  
Federal Public Defender  
Northern District of Texas

/s/ Michael A. Lehmann  
MICHAEL A. LEHMANN  
Assistant Federal Public Defender

Texas Bar No. 24048615  
819 Taylor Street, Room 9A10  
Fort Worth, Texas 76102  
817.978.2753  
Michael\_Lehmann@fd.org

CERTIFICATE OF CONFERENCE

I, hereby certify that Laura Montes, the Assistant United States Attorney assigned to this matter was contacted via email, and she is opposed.

/s/ Michael A. Lehmann  
MICHAEL A. LEHMANN

CERTIFICATE OF SERVICE

I, Michael Lehmann, hereby certify that on October 26, 2023, the original of the foregoing motion was delivered to the Honorable Reed O'Connor, United States District Judge, Laura Montes, Assistant United States Attorney, and to the office of United States Probation.

/s/ Michael A. Lehmann  
MICHAEL A. LEHMANN